



J. Ashley Cooper

Partner

Telephone: 843.727.2674

Direct Fax: 843.727.2680

ashleycooper@parkerpoe.com

Atlanta, GA
Charleston, SC
Charlotte, NC
Columbia, SC
Greenville, SC
Raleigh, NC
Spartanburg, SC

March 7, 2019

Richard L. Whitt
Austin & Rogers, P.A.
508 Hampton Street
Suite 203
Columbia, South Carolina 29201

**Re: Docket No. 2018-401-E
SCE&G's Response to Eastover Solar LLC's Objections/Responses to
Company's First Set of Discovery Requests**

Dear Richard:

This letter is in response to Eastover Solar LLC's ("Eastover") Objections/Responses to Company's First Set of Discovery Requests ("Discovery Responses") and to alert you to certain deficiencies contained in the Discovery Responses requiring Eastover's immediate attention.

First, to the extent that Eastover has failed to make a full Response to a Discovery Request based on its filing of its Motion to Hold Docket in Abeyance and its Motion for Protective Order ("Motions"), withholding a full Response is inappropriate absent an Order from the Commission granting such suppression. Further, as noted in SCE&G's Opposition to the Motions, filed on March 1, 2019, and March 4, 2019, respectively, and as set forth in SCE&G's February 22, 2019 correspondence and in a similar discovery deficiency letter to Beulah Solar, LLC dated February 27, 2019, the relief requested by the Motions is misguided and for the purpose of delay.

Second, the general objections posed by Eastover are also inapt and, in certain circumstances, are not in line with the South Carolina Rules of Civil Procedure and/or regulations of the South Carolina Public Service Commission. In addition, to the extent that any Response was withheld on the basis of the purported need for a Confidentiality Agreement, please provide such an Agreement within three (3) business days.

Requests for Admission

Eastover's refusals to admit or deny Requests for Admission 6, 7, and 8 are without merit and should be responded to in full. Furthermore, these Requests for Admission are not vague or ambiguous.

Interrogatories

First, S.C. Code Ann. Regs. § 103-833 requires that interrogatories be signed and verified, yet no verification accompanied Eastover's interrogatories. Throughout the

PPAB 4759493v1

March 7, 2019
Page 2

Interrogatories, Eastover notes that it is “compiling” information. The timeframe in which the applicable rules provide Eastover to respond to SCE&G’s Interrogatories has passed, and Eastover has neither sought nor received an extension of time in which to respond.

The objections to Interrogatories 5, 11-19, and 21 are improper and seek to avoid permissible discovery, as set forth in South Carolina rules and case law. Rule 26(b) of the South Carolina Rules of Civil Procedure permits a broad range of discovery. See Rule 26(b) SCRPC; see *also* S.C. Code Ann. Regs. §103-833 (“[a]ny material relevant to the subject matter involved in the pending proceeding may be discovered...”). “The rules of discovery were designed to promote full examination of all relevant facts and issues....” *Kramer v. Kramer*, 323 S.C. 312, 472 S.E.2d 215 (Ct. App. 1996). “Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.” *City of Columbia v. ACLU*, 323 S.C. 384, 475 S.E.747, 749 (1996). SCE&G’s inquiry into conduct with respect to interconnection agreements containing the same curtailment language now complained of is not only relevant to this dispute, but is also clearly permissible discovery. Furthermore, these Interrogatories are neither vague, ambiguous, overly broad, argumentative, nor harassing and are, in fact, appropriately tailored to seek information related to Eastover’s allegations that promoted the instant proceeding. Eastover must respond fully to SCE&G’s Interrogatories immediately.

Eastover fails to respond completely to Interrogatory 8, which requires that Eastover describe in detail the curtailment protocol it expects to be adopted and how the language will impact the curtailment scenarios contained in the IA. Eastover also fails to respond completely to Interrogatory 23, which requires Eastover to *specifically* identify curtailment protocol it deems “detailed and complex.”

Requests for Production of Documents

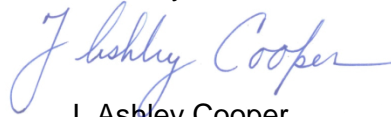
The Responses to the Requests for Production were likewise not verified as required under S.C. Code Ann. Regs. § 103-833. Furthermore, Eastover has improperly objected to or failed to answer Requests for Production 1-2, 4-8, 12-18, and 20-21 or otherwise asserted its purported legal or factual positions in reply to the Requests rather than providing responsive documents as required by South Carolina law (for example, see Eastover’s Responses to Requests 9-11). In certain circumstances Eastover alleges that it would be “burdensome” to review documents responsive to the Requests for Production, so therefore, Eastover will not produce any. This position is in stark conflict with Eastover’s obligations as a litigant under South Carolina law. It was Eastover who initiated this dispute in the first place. Eastover cannot now avoid its obligation to provide information relevant to this dispute and supportive documents, if any actually exist, of its claims. SCE&G demands that Eastover immediately respond and produce documents responsive to SCE&G’s Requests for Production in accordance with Eastover’s legal obligations.

With respect to Request for Production 5, the only Request for Production to which Eastover discloses that it has documents and will produce them, please produce those documents immediately.

SCE&G demands an immediate meet and confer with respect to Eastover’s Responses to the Discovery Requests, to occur no later than close of business, Monday, March, 11, 2019. In the event that these discovery disputes are not resolved, SCE&G will file a Motion to Compel the Responses and request expedited consideration by the Commission on Tuesday, March 12.

March 7, 2019
Page 3

Sincerely,

A handwritten signature in blue ink that reads "J. Ashley Cooper". The signature is fluid and cursive, with the first name "J." and last name "Cooper" clearly legible.

J. Ashley Cooper

JAC

cc: Matt Gissendanner